

CHAPTER 25. ZONING.

DIVISION C. SINGLE RESIDENTIAL DWELLING DISTRICTS.

Article XVI. Attached Residential (AR) Districts.

[Article XVI, Division C, Chapter 25 was changed from Townhouse Residential (TH) Districts to Attached Residential (AR) Districts by ordinance dated 2/10/10, eff. 3/1/10]

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§ 25-161. Purpose.

The Attached Residential District is intended to provide locations for single-family residential developments utilizing side-by-side duplexes and townhouses at medium densities on public water and sewer.

§ 25-162. Permitted uses.

The following uses shall be permitted within all Attached Residential Dwelling Districts without Administrative or Special Use Permit:

A. Side-by-side duplex and townhouse dwellings provided that each dwelling unit is placed within a lot with yards and setbacks meeting the requirements of this article. However, single-family dwellings not part of side-by-side duplexes and townhouse dwellings are not permitted.

B. Passive recreational facilities not requiring a building.

C. Religious institutions.

§ 25-162.1. Accessory buildings and uses.

A. Accessory buildings and uses customary and clearly incidental to a permitted use and which will not create a nuisance or hazard shall be permitted in Attached Residential Districts, subject to the applicable provisions of article V of division A of this chapter.

B. Accessory buildings and structures not exceeding twenty feet (20') in height nor an aggregate area of nine hundred square feet (900 sq. ft.) may be erected in side and rear yards, however, in no case shall any accessory building be larger than the footprint of the dwelling or taller than the height of the dwelling. Accessory buildings and structures must meet the applicable side and rear yard requirements of §25-169.

§ 25-163. Uses permitted by Administrative Permit.

The uses listed in this section shall be permitted within Attached Residential Districts only upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of article LVI of division I of this chapter. Administrative permits are to be issued only for uses where the applicant can demonstrate that the proposal meets the standards required by this chapter and the uses will not have an undue

adverse impact on the surrounding neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration.

A. Home occupations, Class A.

Home occupations, Class A, may be permitted by Administrative Permit provided:

1. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling or lot, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and
2. Such occupation shall be engaged in only by residents of the dwelling and no more than one (1) employee who comes to the home. The business can have multiple employees who do not come to the home; and
3. If the applicant is a tenant, written permission of the landowner is required; and
4. No display of products made shall be visible from the street; and
5. No products shall be sold on the premises except such as are made on the premises. No other retail sales or wholesale sales shall occur unless:
 - a. No clients or customers come to the home in conjunction with the sales; all sales occur off-premises or via telephone, mail, computer, etc.
 - b. Items are accessory to the main use and sold only to clients or customers using the main business, e.g. shampoo for clients in a beauty or barber shop.
6. No accessory building shall be used for such occupation; and
7. No outside display or storage of materials, goods, supplies, or equipment in relation to the home occupation shall be permitted. Any animals associated with a permitted home occupation, i.e. pet grooming business; must be kept indoors; and
8. The occupation shall not generate more than ten (10) vehicular trips in a day. A trip consists of one (1) arrival and one (1) departure; and
9. Deliveries shall be limited to normal daily deliveries by public and private mail carriers, including USPS, Fed-Ex, UPS, and similar carriers; and
10. All parking associated with the business shall be off-street and not located in any required front yard, except within the existing driveway; and

11. No more than one (1) commercial vehicle may be used in conjunction with the home occupation. Commercial vehicles shall be allowed pursuant to the requirements of §25-54.1.N. For purposes of this section a commercial vehicle does not include a utility trailer. (Ord. 09/28/11, Ord. 10/28/15)

The following uses are not to be considered to be Home Occupations, Class A: trash and garbage collection, boarding houses, day care centers, private schools, firearm sales, and small engine repair or motor vehicle repair. Landscaping, lawn care and mowing businesses, and mobile motor vehicle repair are not to be considered Home Occupations unless all equipment, materials and utility vehicles are kept off site. The applicant shall supply written documentation such as a lease agreement or contract describing where the equipment, materials, and utility vehicles are to be kept to the Community Development Department. (Ord. 09/28/11, Ord. 10/28/15)

B. Day care home occupation.

Day care home occupations may be permitted by Administrative Permit provided:

1. The use of the dwelling for the day care home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and
2. Such occupation shall be engaged in only by residents of the dwelling and one (1) employee who comes to the home; and
3. Play equipment and similar facilities may be used; and
4. No accessory building shall be used for such occupation, except for storage of play equipment when not in use; and
5. All parking associated with the business shall be off-street and not located in any required front yard, except within an existing driveway; and
6. Approval from the Department of Social Services or proof that such approval may be obtained pending zoning approval; and
7. Notification of adjoining property owners. Upon receipt of an application for an Administrative Permit for a day care home occupation, the Zoning Administrator shall send by certified mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.
 - a. Action if objection received.

If written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, the application shall be denied, and the applicant advised that the day care home occupation may commence only upon the approval of a Special Use Permit by the board of zoning appeals.

b. Action if no objection received.

If no written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, and the applicant meets all other requirements of this section, the Zoning Administrator may approve the Administrative Permit.

§ 25-164. Uses permitted by Special Use Permit.

The uses listed in this section shall be permitted within Attached Residential Districts only upon the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of article LVIII of division I of this chapter.

A. General standards applicable to all Special Use Permits. No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.

2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.

NOTE: For restrictive conditions applicable to all Special Use Permits, see § 25-584 of division I of this chapter.

B. Day care centers and nursery schools.

Day care centers and nursery schools may be permitted by Special Use Permit provided:

1. Designated areas for pick-up and delivery are adequate to prevent traffic congestion both on and off site, thereby keeping waiting pedestrians out of vehicle passage ways and parking areas and preventing waiting vehicles from blocking access to and from parking areas or impeding traffic on adjoining streets; and

2. Proposed playgrounds are adequately fenced and subject to the same setback requirements as principal structures, unless the board of zoning appeals finds that greater setbacks are necessary in the interest of public safety and compatibility with the neighboring properties; and

3. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state, and local regulations.

C. Residential care facilities.

Residential care facilities may be permitted by Special Use Permit provided:

1. The facility and anticipated enlargements thereof will be appropriate for residential areas; and

2. The facility, taking into account such things as its proposed size, parking facilities, setbacks, and landscaping, will not be out of character with neighboring properties; and

3. The permitting of the proposed facility, when taking into account the presence of other businesses in the neighborhood, will not result in such concentration or clustering of businesses as to create an institutional setting or business center or otherwise change the area's character and social structure; and

4. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state and local regulations.

§ 25-165. Prohibited uses.

All uses except those listed in §§25-162, 25-162.1, 25-163, and 25-164 above, including manufactured and mobile homes, are specifically prohibited in Attached Residential Districts.

§ 25-166. Lot area.

The minimum lot area shall be two thousand five hundred twenty square feet (2,520 sq. ft.).

§ 25-167. Lot width.

The minimum lot width at any point shall be twenty feet (20').

§ 25-168. Lot frontage.

Every lot shall have at least twenty feet (20') of frontage on:

A. A public street.

B. A private street provided,

1. All private streets shall be designed to safely accommodate fire and rescue emergency vehicles.

2. The right-of-way of private streets shall be at least forty feet (40') in width as evidenced by a duly recorded document or deed covenant, or both, which shall specify that no request will be made to have the lot served by a public street unless and until the street has been designed and constructed to state standards for streets in effect at the time the request for acceptance is made at no cost to the county or the Virginia Department of Transportation. Such document shall also specify the provisions for the construction, maintenance, and upkeep of private streets. (Ord. 09/28/11)

C. A parking lot provided:

1. All parking lots shall be designed to safely accommodate fire and rescue emergency vehicles and must meet the requirements of article III. Off-Street Parking.

2. A common access easement shall be provided as evidenced by a duly recorded document or deed covenant, or both. Such document shall also specify the provisions for the construction, maintenance, and upkeep of such common access easement.

§ 25-169. Yard and setback requirements.

In Attached Residential Districts the following yard and setback requirements are imposed:

A. Front lot lines.

1. No building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way line of a public street identified by the Virginia Department of Transportation as an arterial or collector street than fifty feet (50').

2. No building or other structure shall be erected, altered, located, reconstructed or enlarged nearer to the right-of-way line of any other public street identified by the Virginia Department of Transportation as a local street, a private street, an internal travelway, or a parking lot than twenty feet (20'). On lots in subdivisions where a master plan or preliminary plat was approved prior to February 28, 2010, no building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way line of any other public or private street than thirty-five feet (35').

3. In the absence of proof to the contrary the width of a public street shall be presumed to be thirty feet (30'), and the setback may be measured by adding fifteen feet (15') to the required setback and measuring from the center of the general line of passage.

4. If a lot, tract or parcel fronts on two (2) or more streets, the foregoing minimum setbacks shall be required on all streets.

5. For an exception to front line setback requirements, see § 25-13 of article II, division A, of this chapter.

B. Rear lot lines.

1. No principal building or structure shall be erected, altered, located, reconstructed, or enlarged nearer to any rear lot line than twenty-five feet (25').

2. Accessory buildings and structures not exceeding twenty feet (20') in height and with a total aggregate area of no more than nine hundred square feet (900 sq. ft.) may be erected in rear yards. Accessory buildings shall not be nearer than five feet (5') to any rear lot line.

C. Side lot lines.

1. A principal building or structure shall not be erected, altered, located, reconstructed, or enlarged nearer to a side lot line, other than a line upon which rests the common wall with another duplex or townhouse unit, than eight feet (8').

2. Accessory buildings and structures not exceeding twenty feet (20') in height and with a total aggregate area of no more than nine hundred square feet (900 sq. ft.) may be erected in side yards. Side yard setback requirements applicable to principal buildings and structures shall be observed by accessory buildings and structures.

§ 25-170. Public water and sewer required.

All developed lots in Attached Residential Districts shall have service by a public water and a public sewer system.

§25-170.1. Curb, gutter and sidewalks/trails required.

All developed lots shall have curb, gutter, and sidewalks provided to the applicable standards of the Virginia Department of Transportation (VDOT), or curb and gutter provided to the applicable standards of VDOT and internal pedestrian pathways or trails approved by the Augusta County Parks and Recreation Commission are provided. Adequate provisions shall be made for the perpetual maintenance of such pathways or trails.

§ 25-170.2. Common elements.

Where common elements are part of a development in Attached Residential Districts, they shall be established and evidenced by documents duly recorded prior to the sale or lease of any lot, structure or use in the development. Such documents shall also specify the provisions for participation in and construction, maintenance and upkeep of all such common elements. For purposes of this section, common elements shall include all facilities, open areas and other uses of property in which individual lots, structures, uses, owners or tenants have a beneficial interest in common with others.

§ 25-170.3. Height limitations.

In Attached Residential Districts, all buildings and structures shall be subject to the following height limitations:

- A. No building or structure shall exceed thirty-five feet (35') in height.
- B. In no case shall the height of any building or structure exceed the height limitations of the transitional surface, approach surface, horizontal surface and conical surface as required in any Airport Overlay District.
- C. For exceptions to height limitations, see § 25-15 of article II, division A, of this chapter.

§ 25-170.4 Access to public streets.

Lots created in residential subdivisions after February 28, 2010 must access a subdivision street or an internal road system. Nothing contained in this section shall be deemed to affect the validity of any preliminary plat or master plan approved prior to February 28, 2010 in accordance with Chapter 21 of this Code.

Sections 25-171 through 25-210 reserved.

Articles XVII through XX reserved.